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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/763,142	01/29/2002	Ichiro Masaki	400853	3411

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EXAMINER

GEREZGIHER, YEMANE M

ART UNIT PAPER NUMBER

2144

DATE MAILED: 01/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 09/763,142	Applicant(s) MASAKI ET AL.	
	Examiner Yemane M Gerezgiher	Art Unit 2144	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 02/20/2001.  
2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.  
4a) Of the above claim(s) 16-18 is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 1-11, 13, 14, 19 and 20 is/are rejected.  
7) ☒ Claim(s) 12 is/are objected to.  
8) ☐ Claim(s) 1-20 are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.  
10) ☒ The drawing(s) filed on 20 February 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All    b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>02/20/2001</u> . | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION**

1. This application has been examined. Elected Group I (claims 1-15 and 19-20) have been examined.

**Election/Restrictions**

2. In the response to the previous office action (Restriction requirement) mailed on 08/11/2004, the applicant provisionally elected Group I for examination without stating whether the election is made with or without traverse (See Applicant's remark Page 2). However, the examiner presumes that the election is made without traverse. Consequently, the requirement for restriction is now made final.

**Allowable Subject Matter**

3. Claim 12 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

**Claim Rejections - 35 USC § 103**

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1, 13, 15, and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ma (U.S. Patent Number 6,493,317) in view of Elliott (U.S. Patent Number 6,335,927).

As per claim 1 15 and 19, Ma disclosed integrated network services ("coupling a first network to a second network to form at least a part of the integrated network;") having therein nodes with different service classes of routing data according to priorities where the priorities include low-priority and high priority associated with each node in the integrated network for dynamically distributing link resources based on their priorities making sure that best-effort or low-priority request of nodes associated to the second class do not congest or penalize the routing priority of the requests associated with the guaranteed high priority nodes associated with the first class of the integrated network. See ABSTRACT, Figure 3, Column

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3, Lines 16-62, Column 5, Lines 1-22, Column 9, Lines 4-34 and Column 8, Lines 30-59. **Ma** further disclosed, "...implementing a technique for routing traffic associated with a selected class of service...based on a selected class of service, a virtual residual bandwidth value for each link within at least a portion of the network; computer code for utilizing the virtual residual bandwidth values to determine an optimal path for routing traffic associated with the selected class of service..." (See Column 4, Lines 16-24) and "...apparatus for routing traffic in an integrated services network which supports a plurality of different service classes. The apparatus includes means for selecting a particular service class of traffic for routing analysis..." (See Column 4, Lines 45-49). **Ma** also disclosed reducing a bandwidth (claim 13) of a request (See Column 4, Lines 55-64 and Column 17, Lines 30-40).

**Ma** substantially disclosed the invention as claimed. However, **Ma** was silent about assigning a higher routing priority to nodes specifically in a specific network. However, as evidenced by the teachings of **Elliott** favoring requests originating from one specific network by giving higher priority over requests originating from other network was known in the art at the time of the invention. See Column 18, Lines 46-65. Thus, it is respectfully submitted that it would have been

obvious to one of ordinary skill in the art at the time the invention was made to take the teachings of Elliott related to assigning higher routing priorities to data traffic associated to one network over another network and have modified the teachings of Ma related providing routing according to level of priority assigned to nodes generally in an integrated network in order to provide prioritized routing to the real-time traffic of one network over the rest of the best-effort data traffic over the Internet. See Column 18, Lines 58-65.

6. Claims 2-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over the combined teachings of Ma (U.S. Patent Number 6,493,317) and Elliott (U.S. Patent Number 6,335,927) and further in view of Ramakrishnan et al. (U.S. Patent Number 6,199,124) hereinafter referred to as Ramakrishnan.

The combined teachings of Ma and Elliott substantially disclosed the invention as claimed including assigning a link associated to a node with a value indicating its priority for routing analysis. However, did not mention assigning the priorities in accordance to plurality of priority factors.

An artisan now working with the teachings of the combined teachings of Ma and Elliott would have been motivated to look for teachings that may have allowed other ways of assigning

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priorities that involved multiple factors. In these arts, Ramakrishnan disclosed assigning priority to requests based on multiple factors as claimed in this invention. See Column 22, Lines 7 through Column 24, Line 15.

Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to take the teachings of Ramakrishnan related to assigning priorities based on multiple factors and have modified the already combined teachings of Ma and Elliott related to selecting a routing path to nodes associated with one network by assigning higher priority over the nodes associated with another network, so that the "priority parameters may be adjusted to control the eventual service provided to different parts of the system in the network adapter so that fairness is perceived by the eventual users of the network" See Column 3, Lines 3-6.

7. Claims 8 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over the combined teachings of Ma (U.S. Patent Number 6,493,317) and Elliott (U.S. Patent Number 6,335,927) and further in view of what would have been obvious to one of ordinary skill in the art at the time the invention was made.

The previously combined teachings of Ma and Elliott substantially disclosed the invention as claimed, but failed to

mention translating protocol of data traffic to another protocol of data traffic. Examiner takes Official Notice (see MPEP § 2144.03) that "the use of a gateway ("which is a hardware or software set-up that translates between two dissimilar protocols") and connect two dissimilar protocol networks by translating one data flow of a protocol to another data flow of a protocol" in a computer networking environment was well known in the art at the time the invention was made. The Applicant is entitled to traverse any/all official notice taken in this action according to MPEP § 2144.03. However, MPEP § 2144.03 further states "See also *In re Boon*, 439 F.2d 724, 169 USPQ 231 (CCPA 1971) (a challenge to the taking of judicial notice must contain adequate information or argument to create on its face a reasonable doubt regarding the circumstances justifying the judicial notice)." Specifically, *In re Boon*, 169 USPQ 231, 234 states "as we held in *Ahlert*, an applicant must be given the opportunity to challenge either the correctness of the fact asserted or the notoriety or repute of the reference cited in support of the assertion. We did not mean to imply by this statement that a bald challenge, with nothing more, would be all that was needed". Further note that 37 CFR § 1.671(c)(3) states "Judicial notice means official notice". Thus, a traversal by



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the Applicant that is merely "a bald challenge, with nothing more" will be given very little weight.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use a gateway or other similar method to translate one type of protocol to another and have modified the already combined teachings of Ma and Elliott so that different networks with dissimilar protocol could communicate.

8. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ma (U.S. Patent Number 6,493,317) and Elliott (U.S. Patent Number 6,335,927) and further in view of Festl et al. (U.S. Patent Number 5,699,358) hereinafter referred to as Festl.

The combined teachings of Ma and Elliott substantially disclosed the invention as claimed. However failed to mention detailed routing mechanism of selecting a neighboring node and establishing a routing path from the neighboring node.

An ordinary person of skill in the art of routing and path selection mechanism and principally in a graph theory would have been motivated to look for alternative path selection specially when a predetermined path between nodes are to fail. In these arts Festl disclosed selecting a neighboring node and

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establishing a routing path from the neighboring node. See ABSTRACT and Column 1, Line 5 through Column 2, Line 50.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to take the teachings of Festl related to traffic routing in a communication network and have modified the combined teachings of Ma and Elliott "so that data relating to achievability both of direct paths connecting this switching node to its neighboring nodes and of direct paths connecting the neighboring destination switching node to its respective neighboring nodes are made available in the originating switching node" See Column 1, Lines 54-62.

9. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ma (U.S. Patent Number 6,493,317) and Elliott (U.S. Patent Number 6,335,927) and further in view of Kogane et al. (U.S. Patent Number 6,323,897) hereinafter referred to as Kogane.

Even though the combined teachings of the Ma and Elliott disclosed the invention as claimed, both Ma and Elliott have failed to disclose a surveillance network having therein plurality of cameras. However, as evidenced by the teaching of Kogane a surveillance network including plurality of cameras and clients including a traffic center was known in the art at he

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time of the invention. See Figure 2, Column 1, Line 23 through Column 2, Line 67. Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to take the teachings Kogane related to surveillance network and have modified the already combined teachings of Ma and Elliott in order provide improved security.

10. Claim 10 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ma (U.S. Patent Number 6,493,317) and Elliott (U.S. Patent Number 6,335,927) and further in view of Brendel et al. (U.S. Patent Number 5,774,660) hereinafter referred to as Brendel.

The combined teachings of Ma and Elliott failed to teach migration of a request from a node/server to another node/server. However, as evidenced by the teachings of Brendel, migrating a request from one node to another node was known in the art at the time the invention was made. See Figure 8, Figure 11A, Column 10, Lines 38-53 and Column 9, Lines 30-40. Thus, it would have been obvious to one of ordinary skill in the art at the time of the invention to take the teachings of Brendel related to migrating a request and have modified the combined teachings of Ma and Elliott in order to facilitate the load balancing process in the clustered computer system.

**Conclusion**

11. The prior art made of record (FORM PTO-892) and not relied upon is considered pertinent to Applicant's disclosure.

- a. Doviak; William et al. (US 6826405 B2) entitled:  
"Apparatus and method for intelligent routing of data between a remote device and a host system"
- b. Kato; Eiji et al. (US 6597393 B2) entitled: "Camera control system"
- c. Ash; Gerald Richard et al. (US 6590867 B1) entitled:  
"Internet protocol (IP) class-of-service routing technique"
- d. Kilkki; Kalevi (US 6490287 B1) entitled: "Use allowed priority level for routing decision in SIMA networks"
- e. Phan; Cao Thanh et al. (US 6487289 B1) entitled:  
"Managing priorities for routing calls in a telecommunication network"
- f. Holt, Scolt C. et al. (US 20020146103 A1) entitled:  
"Method and apparatus for routing calls based on identification of the calling party or calling line"
- g. Tam; Ulrica et al. (US 6115751 A) entitled: "Technique for capturing information needed to implement transmission"

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priority routing among heterogeneous nodes of a computer network"

h. Berl; Steven H. et al. (US 5991302 A) entitled:

"Technique for maintaining prioritization of data transferred among heterogeneous nodes of a computer network"

i. Houji; Tomonari (US 5832197 A) entitled: "Alternate routing by increasing initially low QOS value of a selected alternate path during failure to user-specified value"

j. Hluchyj; Michael G. et al. (US 5402478 A) entitled:

"System and method for call-by-call source routing with rule-based fallbacks"

#### NON PATENT DOCUMENTS

k. Qingming Ma et al., "Routing Traffic with Quality-of-Service Guarantees in Integrated Services Networks", In 8th IEEE/ACM International Workshop on Network and Operating Systems Support for Digital Audio and Video (NOSSDAV'98), England, July 1998.

l. Rajagopalan et al., "A framework for QoS-based routing in the Internet", Network Working Group (RFC 2386), August 1998.

12. Any inquiry concerning this communication or earlier communication from the examiner should be directed to Yemane Gerezgiher whose telephone number is (571) 272-3927. The examiner can normally be reached on Monday- Friday from 9:00 AM to 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful. The examiner's supervisor, William Cuchlinski, can be reached at (571) 272-3925.

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AU 2144



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